

June 14, 2022

Ronald K. Hooks
Regional Director
National Labor Relations Board Region 19

RE: Case #19-RC-296056

Dear Regional Director Hooks:

Pursuant to the stipulation in lieu of hearing, Petitioner submits the following written statement in support of the request for a manual election.

Petitioner believes a manual election is appropriate based on the criteria discussed by the Board in *Aspirus Keweenaw*, 370 NLRB No. 45 (November 9, 2020) and General Counsel Memorandum GC 21-01 "Guidance on Propriety of Mail Ballot Elections, pursuant to *Aspirus Keweenaw*."

We believe that on balance, those factors do not support the need for a mail election:

1) The Agency office tasked with conducting the election is not operating under "mandatory telework" status.

It is our understanding that since mid-June 2020, the Agency's offices have all been on permissive, rather than mandatory, telework.

2) There is low community transmission in the neighboring County where a significant amount of voting nurses live.

It is true that both the 14-day trend in the number of new confirmed cases of Covid-19 in the city/county where the facility is located (Malheur) is increasing, and the 14-day testing positivity rate in the city/county where the facility is located is 5 percent or higher. The most recent positivity rate for Malheur County is 7.8% and is increasing.¹ However, where a workforce generally lives in a geographically identifiable location that is distinct from the employer's facility, it may be appropriate to focus consideration on Covid-related data from that locality as well. St. Alphonsus is located near the Idaho border and a significant amount of its workforce comes from that area. It does not appear that County case or positivity rates are easily accessible, but according to the Idaho state website, adjoining Canyon County has a low transmission rate.²

¹ <https://public.tableau.com/app/profile/oregon.health.authority.covid.19/viz/OregonCOVID-19PublicHealthIndicators-SummaryTable/DiseaseSpread-SummaryTable>

² <https://public.tableau.com/app/profile/idaho.division.of.public.health/viz/DPHIdahoCOVID-19Dashboard/Home>

3) Petitioner believes that the employer will commit to abide by the GC Memo 20-10 protocols. GC Memo 20-10, Suggested Manual Election Protocols.

Petitioner has no reason to believe that the employer will not commit to abide by suggested safety protocols for manual election.

4) There is not a current COVID-19 outbreak at the facility in excess of the current community transmission.

Finally, we are not aware of a current Covid-19 outbreak at the facility. As was recently explained, facility outbreak is not the same as an overall presence of community transmission, but is a location specific outbreak. ***Rush University Medical Center, 370 NLRB No. 115 (April 27, 2021)***. If there is such an outbreak, the employer would be obligated to disclose such an occurrence as part of their submission in this matter.

In conclusion, although COVID-19 cases and positivity rates are rising and in excess of Aspirus thresholds for conducting a manual election, there are sound reasons for ordering a manual election. However, if the Region concludes otherwise, Petitioner would not object to that conclusion.

Sincerely,

/s/ Thomas K. Doyle

General Counsel, Oregon Nurses Association